

for his sudden change of outlook could not but affect her attitude in her state of mental flux. "I imagined" was also to her a happy phrase.

A new environment in hospital, a little explanation and persuasion, and the promise of a new beginning in her home country among friends provided the wife with the solution of her conflict. The husband, with the same opportunities of making good, could but forego revenge and attempt a further repression.

This example of *folie à deux* serves to emphasize how imaginary is our borderline between the psychoses and the psycho-neuroses.

I have to thank Dr. T. C. Mackenzie for permission to publish the notes of these cases.

Medico-Legal Notes.

HARNETT *v.* BOND AND ADAM.

An action seriously affecting the interests of the medical profession has been brought by Mr. William Smart Harnett, a farmer, of Springfield, Newington, near Sittingbourne, Kent, against Dr. Charles Hubert Bond, a Commissioner in Lunacy, and Dr. George Henry Adam, the manager of a house for the reception of lunatics at Malling Place, West Malling, Kent, and the hearing, including the argument on the jury's findings and the delivery of the judgment, before Mr. Justice Lush, in the King's Bench Division of the High Court of Justice, lasted from February 7 to 29—seventeen days in all. The action was for damages for alleged conspiracy, assault, and false imprisonment, and the jury on the fifteenth day returned a verdict in the plaintiff's favour, awarding a sum of £25,000 as damages. In the preparation of the following account we have made much use of the reports published in the *Times*.

Case for the Plaintiff.

The plaintiff's case was that on November 10th, 1912, he was received as a private patient at Malling Place on a reception order made by a justice of the peace on certificates signed by Dr. Henry Fisher, of Sittingbourne—against whom an action is pending for having so signed—and the late Dr. Penfold, of Sittingbourne. He was detained there until December 12, 1912, when Dr. Adam, with the consent of two visiting justices, permitted him to be absent on probation for twenty-eight days. On December 14, 1912, the plaintiff alleged that while in a room at the offices of the Commissioners in Lunacy, Victoria Street, Westminster, the defendants conspired to

cause him to be detained there and afterwards to be removed to Malling Place—Dr. Bond causing him to be detained from 11 a.m. until 2.30 p.m., and Dr. Adam ordering two keepers to go to the offices and bring him back to Malling Place. Plaintiff was confined at that place until February 22, 1913, and thereafter was kept in various reception houses until October 15, 1921, when he escaped. He was thus rendered unable personally to carry on his business and manage his property. By an order in lunacy made on July 17, 1913, his wife, Mrs. Dorothy Isobel Harnett, was appointed manager of his property, but by another order made on December 12, 1921, it was restored to him.

Mr. J. B. Matthews, K.C., in his opening, said that Dr. Bond, as an individual Commissioner in Lunacy, had no more right to give anybody into custody on the ground that the person was a lunatic than any member of the jury had. The complaint with regard to him was that on December 14, 1912, with a heartless lack of consideration for the plaintiff, and a courageous braving of the law, he arranged for the plaintiff to be illegally taken into custody and taken back to Malling Place. For eight and a half years Mr. Harnett had been incarcerated in asylum after asylum, although he was absolutely sane throughout that time.

The plaintiff, in his evidence, said his mind was quite all right up to October 30, 1912. When his first wife died in 1908 he had an idea that he had taken some germ from her which set up a condition of nasal catarrh, and, his doctor pooh-pooing it, he went to a quack in Chatham in October, 1912, and received three injections of tuberculin, which brought him to death's door—he suffered agonies physically, and was in a high state of fever and delirium. In fact, he was absolutely out of his mind for several days towards the end of October, 1912, being placed in the care of male nurses for five days. He was an absolutely sane man when he was sent to the asylum. When he went to the offices of the Commissioners in Lunacy on December 14, 1912, he told Dr. Bond that Dr. Adam had said that he was free for twenty-eight days, and that he was under the care of his brother, Arthur Harnett. He remained at the offices for a considerable time as he thought his case was being looked into, and about luncheon time he tried to go out for refreshments, but a clerk repeatedly blocked the way. About 2.30 p.m., Dr. Bond came in with two keepers and seized his wrists, saying that the keepers were two of his (Harnett's) friends who were going to take him back to Malling Place. When he returned to the asylum he was put under rigorous treatment, kept with the worst maniacs at night, and threatened with the padded cell. He never offered violence to anyone during the whole of the proceedings. When on January 13, 1913, he wrote

to Dr. Adam : " The good old dog fox when he is nearly caught turns round and faces the whole pack," he wanted the doctor to face the Commissioners and to send him home. From Malling Place he was transferred to a home at Croydon, where he remained for four and a half years. He acted as librarian, and for his work of cataloguing over a thousand volumes he was thanked by the authorities. He was transferred from asylum to asylum until he reached one at Aylsham, Norfolk, and while there he wrote to the Lord Chancellor asking why he was being detained, the Lord Chancellor replying that he found on inquiry that he (plaintiff) was unfit to be discharged. He thereupon wrote to Dr. Bond that unless he denied the Lord Chancellor's statement, he would consider the doctor had broken faith with him, and that, therefore, it would be within his rights to break faith with the doctor in the matter of his parole. He then escaped from Aylsham, and for a fortnight evaded the vigilance of the police and his wife and his brother. As under the statute the power to recapture must be exercised within fourteen days, he became a free man once more. He was afterwards examined by eminent doctors, from whom he had affidavits as to his complete sanity.

The plaintiff called several witnesses who deposed to his sanity.

Mr. A. A. Norman, a solicitor, said the plaintiff was perfectly natural when he saw him professionally just before the plaintiff went to see Dr. Bond in December, 1912, and also when the witness saw him at a Croydon institution in June, 1913.

The Rev. J. W. Jones said that plaintiff presided at brotherhood meetings at his church at Bournemouth in 1918, read the Scriptures, led the prayers, and gave addresses, and he saw nothing abnormal about him.

Dr. J. S. Risien Russell, who examined the plaintiff in November, 1921, said that as a result of a long interview he certified the plaintiff as capable of looking after himself and his affairs.

Dr. A. C. Morton, of Aylsham, Norfolk, who visited the plaintiff at the Aylsham home on the instructions of the Commissioners in Lunacy, said that when Mr. Harnett in June, 1921, brought one of the Commissioners, the Hon. John Mansfield (now Lord Sandhurst), to him, he (Dr. Morton) told Mr. Mansfield that if the plaintiff was a free man he would refuse to certify him. This witness had made various reports on the plaintiff's condition, and these were put to him by the Attorney-General (Sir Patrick Hastings), K.C., who appeared for Dr. Bond.

May 14, 1920 : " Talkative and excitable. Has some religious mania. Says he will give up his farm and devote all his time to the saving of souls."

June 11, 1920 : " He appears to be under the impression that he is being persecuted."

Dr. Morton said the above did not amount to a statement that the

plaintiff had religious mania, but that he was a religious enthusiast—"something like the Salvation Army."

Dr. T. B. Hyslop said that he examined Mr. Harnett in November, 1921, and found no reason why he should not be given the administration of his own affairs.

Case for the Defendants.

The Attorney-General, in his opening, said that Dr. Bond was represented by the Crown because he acted in his capacity as a Commissioner in Lunacy and not as a private individual. No one could doubt that the case raised questions of importance greatly exceeding that of the issues affecting Mr. Harnett. He had been considering what, if any, statutory protection could be introduced now to ensure that no person hereafter should remain in an asylum without independent investigation. The best protection, one would think, would be that at stated intervals an absolutely independent doctor should be called in by the alleged lunatic or his friends, and if there was any question of disagreement the patient should have an absolute right to a second independent opinion. One of the great difficulties in dealing with mental cases was that nearly every one of them thought that they were wrongfully detained. All that one could do was to get the best advice obtainable.

Mr. A. Neilson, K.C. (for Dr. Adam), mentioned the fact that Mr. Harnett's mother was insane.

Dr. Bond, in his evidence, said that on December 14, 1912, he was at the offices of the Commissioners in Lunacy, when the secretary informed him that there was an excited lunatic in the waiting-room who insisted upon seeing a Commissioner. The file of papers relating to the plaintiff's case was brought to him, and, after he had read them, he went and saw Mr. Harnett, but could not find out from him what was the reason for the visit. The plaintiff talked incoherently, using scraps of phrases and not finishing his sentences. He wildly flourished a bag which jingled as though it contained money, and witness gathered that he had obtained money from a bank. He did not sit down and put his face close to the plaintiff's, nor was Mr. Harnett supplied with a cup of tea. When the witness had his back to the fireplace the plaintiff put each of his hands on the mantelpiece, encircling the witness with his arms. He became more and more excited, and after half an hour had elapsed, the witness formed the opinion that the man was insane and quite unfit to be about unattended. He had no fear personally of the plaintiff, but he thought the average person would have been afraid. Upon referring to the file he found that the plaintiff had been at Malling Place, so a telephone message was sent to that address. The witness was informed by

Dr. Adam that the plaintiff had been placed in the care of his brother and given leave of absence, but that he had escaped from his brother. Witness informed Dr. Adam that the man was unfit to be about by himself. A motor car was sent for to take the plaintiff back to Malling Place, and in the meantime he was made as comfortable as possible and supplied with refreshments. The witness had no recollection of taking hold of the plaintiff's wrists.

Dr. Bond, cross-examined, said it was not usual for the Commissioners to disclose to a patient the grounds on which he was certified, but no one could be confined in an asylum for years without knowing the reason, because it was the practice for doctors to supply the information in conversation with a patient. The plaintiff remained at the offices of the Commissioners in Lunacy of his own free will until the keepers arrived from Malling Place, and he went away quietly with them. The clerk had no instructions to prevent him going out. If the keepers took Mr. Harnett by the arms, he called that friendly compulsion. He did not remember the plaintiff telling him that the post office officials at Newington were religious, and that one of them had said to him: "The Lord bless and keep you to the end." The Commissioners in Lunacy tried to get patient out on probation, and had no desire to curtail leave. One of the reasons why he thought the plaintiff ought not to be at large unattended was that the man was excited and flourished his bag containing money, and he (witness) told the plaintiff this on February 1, 1921.

Mr. Justice Lush: Was that the only reason you gave him for sending him back?

Dr. Bond: I told him he was excited, not himself, and not in a fit condition to be out on probation, and I spoke of the money in the bag.

Mr. Justice Lush: The strange thing about it is that the note the clerk made in December, 1912, did not mention excitement, the bag of money, or that he was not himself.

Dr. Bond: The note was not made by us together as a careful, formal report of all that transpired; neither was it meant to be inclusive of everything that the clerk or I saw.

Dr. Bond, further cross-examined, said the plaintiff was in a delusional state in the early part of 1921, and was under certificate and in charge of highly trained nurses.

Mr. Justice Lush: It was only because he escaped and obtained independent opinion that he was found to have recovered?

Mr. Matthews: The Attorney-General has said Mr. Harnett was on the brink of release when he escaped.

Dr. Bond, asked by the judge to give an opinion of Mr. Harnett's present state, said Mr. Harnett had given his evidence in a perfectly

coherent, sensible manner. Witness had never personally examined Mr. Harnett as to his mental state. He did not mean that he thought Mr. Harnett had not recovered, but he should like to leave his responsibility for that open.

Mr. Justice Lush thought it was common ground that the trouble had passed away.

Mr. Harold Morris, K.C. (appearing with the Attorney-General for Dr. Bond): So it has so far as I and the Attorney-General are concerned, but no medical man would express an opinion until he had satisfied himself by examination, and Dr. Bond says that he has not examined the plaintiff.

Lay witnesses spoke to interviews with Mr. Harnett on November 6, 1912, to his then going on his hands and knees, and grovelling about on the floor, and to his asking one of them to spell "parallelogram."

Mr. Charles Mitchell Moir, a reporter, spoke of an interview with Mr. Harnett on November 9, 1912. He went in response to a telegram from Mr. Harnett, and he thought plaintiff, who had a wild expression, was not in his right mind. The interview lasted nearly an hour, and in the course of it Mr. Harnett reclined on his bed and described a vision he said he had had. Then Mr. Harnett went with the witness into the dining-room, where he fell on his hands and knees, and bowed his head to show the witness what he did when he had had a vision of the Deity.

Cross-examined, Mr. Moir said Mr. Harnett told him he had been ill from an overdose of vaccine, but the witness thought he had imagined it. He did not know the plaintiff was apprehensive of being sent to an asylum.

Mr. Arthur Harnett, retired civil engineer, London Road, Bromley, younger brother of plaintiff, against whom an action is pending on the ground that he was the person who originally caused the plaintiff to be sent to an asylum on November 10, 1912, spoke to plaintiff's alleged delusions. His brother had told him he had seen a bright light, "brighter than the lightness of the day," and also that he had become suddenly mad, having to be held down. Then his brother ordered witness to "clear out," and Mrs. Harnett left with the baby and nurse. Witness thought his brother insane and engaged a man to look after him. He had also seen his brother addressing groups of men in the village to demonstrate his sanity. When the plaintiff was released on probation it was arranged that he should go home, but plaintiff stipulated that the witness should not walk with him in the village street. Next day the plaintiff went to see the Commissioners in Lunacy; he would not travel with the witness, but went into the next compartment. When the train reached Victoria the plaintiff gave him the slip.

Cross-examined, he did not think the plaintiff was likely to offer violence to his wife at the time she left the house. He had never once visited his brother during the eight years of his confinement. His brother had sworn vengeance against him, and he understood that he was quite a dangerous lunatic. The plaintiff's objection to his mother-in-law "struck me as rather irrational." His brother had knelt down and prayed for him, while tears poured down his cheeks. He thought it strange that his brother should begin to call him "Arthur, dear Arthur." He did not think he could mention any specific delusions, but he thought his brother had delusions about his wife.

The Attorney-General: Your brother has suggested that in his view his wife used you and Dr. Penfold to get him put away. Is there any truth in that?—Certainly not.

Dr. Adam, in his evidence, said in 1907 he joined his father, who owned the mental home at Malling Place, and when his father died in 1908 he had complete control of the home. In November, 1912, Dr. Penfold telephoned asking whether he could receive Mr. Harnett, and when he examined Mr. Harnett on admission he thought that he was maniacal. His condition improved, however, and the witness took steps to let him out on probation for twenty-eight days. The form of leave of absence order issued in the case of the plaintiff was the same as was used in other cases. It bore the proviso that the medical officer "shall at any time before the expiration of the said period have power to take back the said patient into the licensed house if his mental condition requires it." The plaintiff left on December 12, with his brother, who had undertaken to take charge of him. On December 14, 1912, the witness received a telephone message from the offices of the Commissioners in Lunacy saying that the plaintiff was interviewing the Commissioners and that he did not appear to be in a fit state to be at large. The only thing he could do upon the receipt of such a message was to act under the provision in the order, and send for the patient. This the witness did, sending two keepers, who brought the plaintiff back in a motor car. Upon arrival at Malling Place, the plaintiff was in a very excited state and much worse than when he went away. He had the delusion that he was going to be injected with drugs, and also that people were persecuting him, and that he was suffering from various diseases, one being a tuberculous throat. The plaintiff finally left Malling Place on February 22, 1913, and after that date witness had nothing to do with him.

Cross-examined, Dr. Adam said as soon as a patient was received he tried to ascertain whether the grounds of certification were well founded. He never heard that two men accompanied plaintiff to

the asylum to protest against his incarceration. That a man should address his friends and neighbours asking them to testify to his sanity was not by itself indicative of insanity. That a man had had acute mania on October 29, 1912, caused by an injection of tuberculin would not of itself show that he was insane on November 10, 1912. That a man should feel that he had a "call" to preach in the hope of saving souls was not evidence of unsoundness of mind. That plaintiff should communicate with the Governor of Borstal Prison asking for leave to address the prisoners was a rather suspicious circumstance; it was not a sensible thing to do. Nor was it evidence of insanity that plaintiff should collect and harangue villagers in the street. He admitted that the certificates giving the above as grounds of insanity were not very strong, but added that all the facts taken together would be evidence of insanity. The strongest evidence was the letter addressed to "Dear Postal Officials," and beginning: "Jesus has touched my eyes." He was not aware that this was a Biblical quotation. He thought the whole letter was indicative of insanity. When the plaintiff arrived at the home his aspect was wild.

Mr. Matthews: Would a sane man taken into an asylum be tame or wild?—Wild, I should think.

Witness said plaintiff talked incoherently and ramblingly on religious subjects, and that was evidence of insanity. In fact, he was shouting. The plaintiff was probably present at the week-end entertainment following his admission, and even if he were incoherent otherwise he might have given a coherent recitation from *Alice in Wonderland*. He admitted that a statement made to Mr. Arthur Harnett in a letter in November, 1912, that his brother had made no complaints was untrue; it was a mistake. If the plaintiff still believed that he had a tuberculous throat after a throat specialist had said he had not, that would be a delusion. Plaintiff also thought that he had cancer of the throat. There were many drugs with which people might be injected in such a way as to put them out of their minds. Mr. Harnett had a delusion that he might be treated in such a way. In witness's opinion, it would not have been a breach of the conditions of the plaintiff's leave if he had left his brother and gone to see the Commissioners. He did not think the plaintiff's desire to go and live with Lord Wolseley was a delusion, as it might have been explained by the fact that Mr. Harnett, as a believer in the efficacy of prayer, found a kindred spirit in Lord Wolseley. Witness did not see the plaintiff's letters to the Lord Chancellor, or plaintiff's entries in his diary. Counsel read the letters, and the witness agreed that it was a fair inference to draw from them that the plaintiff was beating against the bars of his cage and struggling for freedom. Although

plaintiff's condition varied while he was at Malling Place, he was always inclined to be dangerous, and witness had entered in his case-book: "Actions uncontrolled; jumping from one seat to another; throwing his arms about." His gesticulations were threatening.

A former head attendant at Malling Place denied the plaintiff's allegation that he was subjected to rigorous treatment when he was brought back to Malling Place on December 14, 1912. The plaintiff was not threatened with a padded cell.

Dr. Henry Fisher, of Sittingbourne, said he saw the plaintiff in an extremely excitable state haranguing the villagers at Newington on November 9, 1912, about magistrates, witness, and so forth, so he concluded the plaintiff was of unsound mind, and accordingly certified him as such.

Mr. Matthews: Must you not see by questioning whether the man's answers are rational and coherent?—My duty is to make observation.

Mr. Justice Lush: Is it your duty to put questions to the alleged lunatic?—Yes.

Mr. Matthews: What questions did you put to the plaintiff, and what answers did he make?—I cannot remember now any questions that I put.

The witness denied the suggestion that he had been brought there for the purpose of certifying Mr. Harnett, and that he was prepared to do so on any flimsy material. He went there with a perfectly open mind, and, in his opinion, the evidence was sufficient.

This witness was recalled at a later stage of the hearing, and admitted that his statement in his earlier evidence that if Mr. Harnett had said that he (the witness) had attended Mrs. Harnett he would have treated it as a delusion, was untrue—counsel having produced a receipt given by him in respect of medical attendance upon the plaintiff's wife. The witness, in explanation, said: "The question was thrown upon me suddenly on a mind blank on the subject. Naturally, I resented that question, because I knew very little of it."

Mr. Justice Lush: In my opinion your conduct in regard to this evidence you gave is very reprehensible.

Dr. T. Claye Shaw, who saw the plaintiff at Malling Place on November 19, 1912, said it struck him as being a case of toxic insanity brought on by blood-poisoning.

Dr. Ludford Cooper, who was called in by Dr. Penfold to see the plaintiff at Newington towards the end of October, 1912, said he had not the slightest doubt that the man was insane. On December 13, 1912, Mr. Harnett came into the witness's consulting room and prayed aloud on his knees. The witness went to the fireplace and the plaintiff followed him on his knees, still praying, but beyond the words: "Jesus Christ," he was quite incoherent, and the witness did not

know why the plaintiff wanted to consult him. The plaintiff, when he got up, began to talk about a plot and a conspiracy between Dr. Penfold and Mrs. Harnett, and the witness was aware that this was not true. The witness happened to be at Malling Place once when the plaintiff came up and shook him warmly by the hand, and asked him how to spell "parallelogram."

Dr. Alfred Irby Webster, of Rainham, near Chatham, said the plaintiff called upon him twice on December 13, 1912, and the first thing he said was: "Dr. Webster, you are a deeply religious man. You believe in the Lord Jesus Christ." The man was wild and excited in appearance and manner, and the witness formed a very decided opinion that he was of unsound mind. His belief was that the plaintiff wanted him to be his family medical adviser.

Mr. Oswald Dickinson, Secretary to the Commissioners in Lunacy at Victoria Street, in answer to questions by the judge, said a memorandum was kept of every visit to the offices.

Mr. Justice Lush: How comes it that there is no reference in the memorandum of the plaintiff's visit to the condition of the plaintiff?—We do not put down the mental condition of a patient.

Mr. Justice Lush: Not when you are sending to have him fetched because he is not fit to be at large?—No.

Mr. Justice Lush: There is not a trace in the memorandum of any justification for sending him back, except that he had escaped from his brother. Can you account for that?—No.

Mr. Justice Lush: I attach the very greatest possible importance to it.

Dr. E. S. Passmore, Medical Superintendent at the Croydon Mental Hospital, said he fetched the plaintiff from Malling Place in February, 1913, and during the return drive Mr. Harnett, explaining why he had been detained, said: "I was poisoned by tuberculin, and it went to my head."

Cross-examined, the witness said the delusions which he himself detected in the plaintiff were his idea of possessing supernatural power and his ideas of suspicion and persecution. He reported the plaintiff after admission to be suffering from "mental exaltation." He thought the plaintiff was "tormented by voices" from his general attitude, and the manner in which he looked round if one spoke to him. He believed it to be true that Mr. Harnett offered the Board of Control £30 to send a mental detective to his home to see that he had fair play. The plaintiff told him he had told Dr. Cooper that he (the plaintiff) had the "key" to everything, and witness regarded that as a delusion. The plaintiff was reported on October 25, 1914, to be harbouring vengeance against everyone who had had anything to do with putting him in the asylum, and the plaintiff once said to

witness: "I will do for them." Witness thought it meant that plaintiff would do personal injury.

Dr. Berncastle, assistant to Dr. Passmore, said the plaintiff told him he possessed a mission to save souls and claimed to possess supernatural powers. He considered the plaintiff insane, and even now, after hearing the plaintiff give evidence, he would not certify that he was of sound mind without a special personal examination of him.

Lord Sandhurst, a Visitor in Lunacy, who saw the plaintiff on July 9, 1913, May 18, 1917, March 20, 1920, and in June or July, 1921, said that when he saw him in 1913 plaintiff was in a state of mental exaltation, and attributed his illness to administration of toxin, dating his religious zeal from the time of his illness. The plaintiff was anxious to communicate his peace of mind to others, and to preach to Borstal inmates. The plaintiff thought his brother had been misled by Dr. Penfold, who had been actuated by annoyance at his (the plaintiff's) having consulted a quack instead of him. Also he thought Dr. Bond, in returning him to Malling Place, was covering up a scheme for bringing his persecutors to justice. The plaintiff was very voluble, excitable, and demonstrative. Lord Sandhurst added that his own object was to advise the Master in Lunacy on the appointment of a receiver, but he was apprehensive that the plaintiff's condition might lead him to do rash things if he had charge of his own affairs. In his opinion, it was in the plaintiff's own interests that he should remain where he was. In 1917 Mr. Harnett appeared more composed, and in 1920 still more composed, whilst by 1921, the witness, after a long conversation with him, could find nothing wrong with him.

Sir James Crichton-Browne, a Visitor in Lunacy for forty-five years, who visited the plaintiff at the Croydon home, after Lord Sandhurst's visit in 1913, said that after an interview of three-quarters of an hour he was able to satisfy himself without any doubt as to the state of the plaintiff's mind—"that he was of unsound mind and dangerous." The witness had not seen the plaintiff before or since. The plaintiff told him he had been injected with tuberculin by a quack, that he had a special mission to preach to boys and girls about their sexual relations. Witness asked him: "To girls?" and Mr. Harnett replied: "Yes, God has prepared me." Plaintiff also told him he had written a pamphlet entitled *Blood is Life*, for circulation among boys and girls, and, further, that a month after his marriage he had made a horrible discovery. The plaintiff then became greatly excited, beat his head with his hands, wrung his hands, and sobbed.

At his Lordship's request the plaintiff's statement about his wife was written down by the witness, his Lordship upon reading it observing: "I don't see any objection to this."

The witness added that he came to the conclusion that plaintiff suffered from a delusion about his wife. The plaintiff had said that when he made his discovery he had great difficulty in restraining himself. That was one of the reasons why he (Sir James) considered him to be dangerous, but without that statement witness would have considered Mr. Harnett insane. Mr. Harnett also disclosed a plot in which five or six persons were concerned, Dr. Adam being the central figure. The witness thought the excitement would subside, and that Mr. Harnett would obtain control over his delusions, but he did not think that he would lose the delusions altogether.

Cross-examined, Sir James said he regarded the man's statement that his illness was due to the injection as a delusion.

The plaintiff was then recalled, and, examined by Mr. S. Cope Morgan, gave his version of the various interviews with the witnesses called by the defence. It was because Dr. Penfold did not believe in God that he asked Dr. Webster whether he believed in God. Dr. Cooper called on him on October 31, 1912, when he was recovering from his delirium, and said to him: "Mr. Harnett, in my opinion you are perfectly sane. It is entirely due to the toxin and you need not be afraid that it will ever occur again." The plaintiff denied that when Dr. Cooper called at Malling Place to see another patient, he asked him to spell "parallelogram." What actually happened was that when he saw Dr. Cooper, Dr. Adam, and a third person seated in a room, he went up to Dr. Cooper and said: "Doctor, I want to thank you for the true report you gave me on October 31. Now I know you will speak the truth. Tell Dr. Adam here, when you saw me on October 31, was I mad or sane?" Dr. Cooper replied: "Perfectly sane." As to Dr. Cooper's statement that the witness followed him about on his knees on one occasion in Dr. Cooper's consulting room—"it was absolutely false." What actually happened was that he went down on his knees on a piece of furniture and told the doctor his domestic troubles, as he had later told Sir James Crichton-Browne.

Counsel then addressed the jury.

The Attorney-General submitted that Dr. Bond sent Mr. Harnett back to Malling Place so that Dr. Adam could see whether he was better or worse. If Mr. Harnett was sane the duty of Dr. Adam was to set him free. Nobody could suggest Dr. Bond was responsible. The only trespass in law which Dr. Bond might have committed was the keeping of the plaintiff in the room until the keepers arrived to take him back to Malling Place.

Mr. Neilson submitted that Dr. Adam had acted honestly, reasonably, and properly in an emergency, and that he had done no more than any properly minded person would have done in the circumstances.

Mr. Matthews said the case showed how a sane man could be kept for years in a lunatic asylum. On the jury rested the responsibility of rendering impossible in the future any repetition of the dreadful wrong done to Mr. Harnett.

Judge's Questions to the Jury.

Mr. Justice Lush, in his summing up, said that one sacred legal right that Mr. Harnett, as any other citizen, enjoyed was that of personal liberty, and if the defendants had interfered with it without just cause or excuse they would have to suffer the consequences. Dr. Bond had no more control over the plaintiff's personal rights than he (his lordship) had. Dr. Adam's case was different from that of Dr. Bond's, but still, if he had disregarded the plaintiff's rights and had acted in a way contrary to the law, he would have to take the consequences of his wrongful act. What more tragic thing could the jury conceive than that if the plaintiff was a sane person—he was admittedly a good business man—he should be taken off by keepers to an asylum and kept in asylums for nine long years, associated with maniacs and deprived of his liberty? If the plaintiff had not escaped, he (his lordship) did not know but that he might have been there now. It seemed strange, but it was the law that if a man hid himself for fourteen days, he was a free man. There was a question of law which, so far as he knew, had never arisen before—as to the rights and duties of those who were responsible for the charge of the insane when a patient was let out with a restriction in the order that he was liable to be taken back if his condition required it.

The judge's questions and the jury's answers were as follows :

1. Did Dr. Bond cause the plaintiff to be detained at the office until the attendants came for him?—Yes.
2. Did he cause him to be sent back for the purpose only of his being examined by Dr. Adam or for the purpose of his being detained at Malling Place?—Being detained at Malling Place.
3. Did Dr. Bond cause the plaintiff to be taken back?—Yes.
Did he and Dr. Adam agree, after consultation, that the plaintiff should be sent for and taken back?—No.
Was the taking back entirely the act of Dr. Adam?—No.
4. Was the plaintiff of unsound mind on December 14, 1912?—No.
Was he fit to be at large?—Yes.
Was he dangerous to himself or to others?—No.
5. Did Dr. Bond honestly believe that the plaintiff was of unsound mind, not fit to be at large, and dangerous to others?—No.
6. Did he believe that the plaintiff had escaped from his

brother's charge; and, if so, was that his reason for having him sent back?—Yes.

7. Did he take reasonable care to ascertain the true facts?—No.

8. Did he honestly believe that Dr. Adam had retained the power of retaking the plaintiff back during his twenty-eight days' leave of absence?—Yes.

9. Did Dr. Adam, when he received the telephone message and sent his car, honestly believe that the plaintiff, on December 14, 1912, was of unsound mind and unfit to be at large?—Yes.

10. Did he honestly believe that it was in the plaintiff's interest that he should be taken back to Malling Place?—Yes.

11. Did he take reasonable care in doing what he did?—No.

12. Did he make it known to the plaintiff that he was liable to be taken if his mental condition required it?—No.

13. Was the detention of the plaintiff at the Commissioners' office the act of Dr. Bond alone, or was it really the act of both defendants?—Dr. Bond's.

The jury assessed the damages at £25,000—awarding £5,000 of this sum in respect of the original detention of the plaintiff at Dr. Bond's offices, and allocating the remainder in the proportion of seven-tenths against Dr. Bond, and three-tenths against Dr. Adam.

Mr. Justice Lush thereupon entered judgment against Dr. Bond for £5,000 and against Dr. Bond and Dr. Adam jointly for £20,000, refusing a stay unless £5,000 was paid to the plaintiff by Dr. Bond within a week, and £20,000 was paid into court, or security given, within three weeks, the usual undertaking to be given as to costs which followed the event.

Counsel asked whether security was necessary, as Dr. Bond was represented by the Crown, but his lordship replied that his judgment was not given against the Crown, but against Dr. Bond. If he had the assurance from the Government department that the money would be paid he would say no more.¶ He adjourned the application for a stay as against Dr. Bond for a week, and as against Dr. Adam for three weeks.

Counsel said he could give an undertaking that if an appeal was brought on behalf of Dr. Bond the conditions his lordship had imposed would be carried out.

Judgment.

Mr. Justice Lush, in delivering judgment, alluded first to the important question of remoteness of damage. Was it wrong in law for the jury to take into consideration as the damages which followed from the wrongful acts of the defendants the detention to which the

plaintiff was subjected during the whole of the period from December 14, 1912, till October 15, 1921, when he escaped from the mental home at Aylsham? It was truly said that where there was a *novus actus interveniens* the chain of causation was broken; and it was contended that there was a *novus actus interveniens* here and that the chain was broken either when Dr. Adam, on examining the patient after he returned to Malling Place, found that he was of unsound mind, or when the plaintiff was removed to Croydon in February, 1913, or on November 10, 1913, when there was a re-certification. It was immaterial that neither Dr. Bond nor Dr. Adam would anticipate that the plaintiff would be detained for so long a time. The test was not what the parties would have anticipated, but whether the damage was the direct consequence of the wrongful act. In his opinion, there was no *novus actus interveniens*, and the chain of causation was not broken. It was quite open to the jury to treat the long detention as a direct consequence of the wrongful acts of the defendants. The evidence showed how an unfavourable symptom might, and probably would, influence the medical superintendents and commissioners and visitors in considering whether the patient ought to be detained or discharged. To ascertain whether a person was suffering from mental derangement was a difficult question for doctors to diagnose. One of the obvious risks to which a patient in a lunatic asylum was exposed was that he might still be thought insane when, in fact, he was sane. The risk of such a consequence following was directly caused by his being placed in an asylum, and the peril was especially great in the plaintiff's case. Each fresh medical superintendent when he received the plaintiff into his home from the previous home would know the reports by the doctors at the previous places at which he had been detained, and would know their views and observations with regard to him, and would necessarily take into account in considering his mental condition what his previous history had been. He could not regard the decisions arrived at by the different doctors, commissioners, and visitors, at the various homes, and the decisions arrived at by the medical superintendents in the homes from time to time, as a fresh intervention which would break the chain of causation. What each doctor did was not to do some act which would injure the plaintiff, but to omit to discover that he had recovered. It was the failure to do something, not the doing of some independent act, that caused the plaintiff's further detention. In the view of his lordship, the re-certification on November 10, 1913, did not constitute an "intervention." What was done was mere machinery for the purpose of avoiding the necessity of having a new reception order drawn up. It was quite obvious that the jury treated the plaintiff as of sound mind during the whole period, and the evidence to that effect was

clear and convincing. The alleged delusions were not delusions at all, and the Attorney-General did not really dispute in his closing speech that, at all events, most of them were probably not delusions at all. It had been contended that there was no evidence to support the finding that Dr. Adam did not exercise reasonable care, and it had also been contended that that finding was not consistent with the finding that he honestly believed the plaintiff was insane, and that it was to his interest to be taken back.

Dr. Adam allowed the plaintiff to go out on December 12, 1912, with the consent of the justices, or they had given their licence on his recommendation, and it was said that, as that licence was subject to the power of revocation if the plaintiff's mental condition required it, that as Dr. Adam had the honest belief at the time when the plaintiff was sent back to Malling Place that he was not fit to be at large, and that as it was his interest to be taken back, Dr. Adam was entitled to revoke the licence, and that it was immaterial as he had the honest belief what care he had taken to ascertain if his belief was well founded. If he were to accede to that he would be laying down this principle—that a medical superintendent at an asylum owed no duty to his patients to take proper care, at all events towards a patient who had so far recovered that he had been allowed out. Of all others, the unfortunate and helpless persons who had been certified as insane required every care from those in authority. They were powerless to resist the actions of the officials who administered the Lunacy Law. Dr. Adam owed the plaintiff the duty to satisfy himself, before sending to have the plaintiff brought back, that he was insane, and if he chose to act on some other person's opinion he did so at his own risk, whoever that other person might be. He could not look at the matter from Dr. Adam's point of view only and forget that of the plaintiff. Dr. Adam owed the plaintiff a duty to take reasonable care, and honest belief afforded him no protection if he failed to take it. The jury were well warranted in coming to the conclusion that there was nothing to prevent Dr. Adam from going to see the plaintiff instead of agreeing that the plaintiff should be imprisoned at Dr. Bond's, and then put into the car and sent back. To say that it made no difference whether Dr. Adam examined the plaintiff before he sent for him, or whether he sent for him first and examined him afterwards, was a more serious misconception, as it was admitted by Dr. Adam, if any such evidence was necessary, that to bring the plaintiff back would be very detrimental to his mental condition, especially if, as was Dr. Adam's view, he had not absolutely and completely recovered at the time when he was allowed to leave Malling Place. Moreover, Dr. Adam could and ought to have ascertained from Dr. Bond before he sent his car what the plaintiff's symptoms were, and why Dr.

Bond thought he was not fit to be at large. The importance to the plaintiff, if he had ascertained the facts, was obvious. His lordship referred to the findings of the jury against Dr. Bond, and said if Dr. Adam had ascertained the true facts from Dr. Bond, he might never even have had to see the plaintiff at all. If he had gone up he could have cleared the matter up, and would, no doubt, have allowed the plaintiff to remain out of the asylum. Also, the jury were entitled to consider the strange indifference which Dr. Adam showed afterwards in never ascertaining from Dr. Bond what condition the plaintiff was in when Dr. Bond sent his telephone message. It evidenced his want of care throughout, and his lordship was of opinion that there was ample evidence to support the findings of the jury.

Finally, his lordship referred to the question of the onus of proof in cases where Section 330 of the Lunacy Act, 1890, applied, though he thought it immaterial in the view he took of the facts in that case. Section 330 protected the medical superintendent and others if they acted *bonâ fide* and with reasonable care, but the onus was upon them to prove that they were entitled to that protection. It was never intended that the burden of proving a negative should be upon the person who brought his action on the ground that the official had exceeded his jurisdiction, though, as a matter of fact, Dr. Adam had not exceeded his jurisdiction, but had failed to exercise the reasonable care he ought to have exercised to entitle himself to the protection given by Section 330.

[Dr. Adam's defence was conducted by the London and Counties Medical Protection Society, Ltd.].—*British Medical Journal*, March 8, 1924.

An appeal has been lodged. On March 5 the Attorney-General for Dr. Bond, and Mr. Carthew for Dr. Adam, applied that the hearing might be expedited. Lord Justice Bankes said that he thought it could be arranged for the case to be taken early in April.

REX v. DORA MARTHA SPARLING SADLER.

This case was tried at the Central Criminal Court, on January 16, before Mr. Justice Greer. The prisoner was 37 years of age, and had been employed for four years, as a childrens' nurse, in a family living at Kensington. Two children were under her care, Sonia aged 4 years, and Jean aged 9 months. Until the birth of the second child the mother had been in the habit of going daily to business. As a consequence, the care of the elder child had, to an unusual degree, devolved upon the prisoner, who became exceedingly fond of the child. After the birth of the second child the mother was more at home. The prisoner appears to have resented this, and there